

Officer History

Officer Name: Caches, Fernando

Tax ID: [REDACTED]

Sex: [REDACTED]

Shield: [REDACTED]

Race: [REDACTED]

Rank: POM

Command: 068

DOB: [REDACTED]

Appt Date: 07/18/2007

Age: [REDACTED]

Tenure: 13

| CCRB # | Report Date | Incident Date | Allegation | Disposition | NYPD Disposition | NYPD Penalty | Command |
|---------------------------|-------------|---------------|--|--------------------------------------|----------------------------|-----------------|---------|
| 201600505 | 01/21/2016 | 01/19/2016 | Force - Other | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Force - Physical force | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Force - Physical force | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Force - Physical force | Alleged Victim Unavailable | | | 068 |
| | 01/21/2016 | 01/19/2016 | Force - Chokehold | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Offensive Lang. - Race | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Offensive Lang. - Gender | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Discourtesy - Word | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Discourtesy - Action | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Abuse - Threat of force (verbal or physical) | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Abuse - Threat of force (verbal or physical) | Unsubstantiated | | | 068 |
| | 01/21/2016 | 01/19/2016 | Discourtesy - Word | Alleged Victim Unavailable | | | 068 |
| 201603047 | 04/10/2016 | 01/12/2016 | Abuse - Premises entered and/or searched | Complainant Uncooperative | | | 068 |
| 201802044 | 03/08/2018 | 03/07/2018 | Abuse - Threat to damage/seize property | Substantiated (Command Discipline A) | No Disciplinary Action-DUP | No penalty | 068 |
| 201806096 | 07/27/2018 | 02/13/2018 | OMN - Failure to prepare a memo book entry | Other Misconduct | No Finding | No penalty | 068 |
| 201900155 | 01/05/2019 | 01/03/2019 | Force - Physical force | Unfounded | | | 068 |
| Total Charges = 16 | | | | Total Cases = 5 | | | |

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | |
|--|--|-------------------------------|---|---|
| Investigator: Scott Carlton | Team: Squad #16 | CCRB Case #: 201802044 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourtesy |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. <input type="checkbox"/> Injury |
| Incident Date(s) Wed, 03/07/2018 6:53 PM | Location of Incident: [REDACTED] [REDACTED] | Precinct: 68 | S.O.L. Expires: 09/07/2019 | |
| Date/Time CV Reported Thu, 03/08/2018 1:21 PM | CV Reported At: CCRB | How CV Reported: In-person | Date/Time Received at CCRB Thu, 03/08/2018 1:21 PM | |

| Complainant/Victim | Type | Home Address |
|--------------------|-------------|---|
| 1. R [REDACTED] | Comp/Victim | [REDACTED] [REDACTED] Brooklyn NY 11220 |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|------------|------------|---------|
| 1. POM Fernando Caches | [REDACTED] | [REDACTED] | 068 PCT |
| 2. POM John Cassidy | [REDACTED] | [REDACTED] | 068 PCT |
| 3. An officer | | | 068 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-----------------------|------------|------------|----------|
| 1. POM Louis Vannucci | [REDACTED] | [REDACTED] | 068 PCT |
| 2. POM Daniel Pina | [REDACTED] | [REDACTED] | 068 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-------------------------|---|-----------------------------|
| A . An officer | Abuse of Authority: An officer refused to provide his name and shield number to [REDACTED] | A . Officer(s) Unidentified |
| B . POM Fernando Caches | Abuse of Authority: Police Officer Fernando Caches threatened to damage [REDACTED] property. | B . Substantiated |
| C . POM John Cassidy | Abuse of Authority: Police Officer John Cassidy interfered with [REDACTED] use of a recording device. | C . Substantiated |
| D . An officer | Abuse of Authority: An officer interfered with [REDACTED] use of a recording device. | D . Officer(s) Unidentified |

Case Summary

On March 8, 2018, [REDACTED] reported the following complaint to the CCRB in-person (Board Review 04).

On March 7, 2018, at approximately 6:53 p.m., PO Fernando Caches, PO John Cassidy, PO Daniel Pina, and PO Louis Vannucci responded to a 911 call made by Mr. [REDACTED] at [REDACTED] [REDACTED] in Brooklyn in which Mr. [REDACTED] stated that his neighbors were causing a noise disturbance by banging on the apartment building's pipes and dropping objects on the floor above him to intentionally harass him. Upon their arrival, Mr. [REDACTED] refused to open his apartment door but asked that the officers investigate the harassment. Mr. [REDACTED] said through the door, "What is your, except Officer Cache, what is your badge number and what is your name, officer?" None of the officers provided their names or shield numbers (**Allegation A: Abuse of Authority, officer unidentified**). PO Caches said, "Alright man, you can open this door, or we can knock it down. What do you want?" (**Allegation B: Abuse of Authority, substantiated**).

The officers left the location after approximately 15 minutes. As they did so, Mr. [REDACTED] made a video recording on his cellphone of the officers outside his window. One to two officers shined their flashlights at Mr. [REDACTED] such that Mr. [REDACTED] was not able to see the officers in the recording (**Allegation C: Abuse of Authority, substantiated; Allegation D: Abuse of Authority, officer unidentified**).

Mr. [REDACTED] provided an audio recording of the conversation through the door and a cell phone video recording which captured the officers as they exited the building (Board Review 02, 03 and 01).

Findings and Recommendations

Allegation (A) Abuse of Authority: An officer refused to provide his name and shield number to [REDACTED]

Mr. [REDACTED] made an audio recording from inside the door of his apartment and provided it to the CCRB on August 8, 2018. The recording captures the entire conversation between himself and the officers (Board Review 02). At 25 minutes and 48 seconds into the recording, Mr. [REDACTED] says, "What is your, except Officer Cache, what is your badge number and what is your name, officer?" None of the officers present acknowledge or provide an answer to Mr. [REDACTED] request over the course of the recording.

Mr. [REDACTED] use of the singular tense suggests that his question was directed at a single officer outside his door. However, in his statement at the CCRB, Mr. [REDACTED] stated that he said, "Please identify yourselves. What is your badge number?" rather than the question heard on the recording (Board Review 04). He further stated that his request was directed at all the officers that stood outside his door. As such, Mr. [REDACTED] was unable to specify the particular officer to whom his request was directed.

PO Caches, PO Vannucci, and PO Pina stated they did not remember or could not hear any requests for names or shield numbers made through the door (Board Review 05, 06, and 07). PO Cassidy stated that he did not know which officer Mr. [REDACTED] request, as heard on the audio recording, was addressed to (Board Review 08).

Given that Mr. [REDACTED] was unable to specify the officer from whom he requested a name and shield number, and given that the officers did not hear or could not recall to whom the request was addressed, the investigation was unable to determine the identity of the subject officer by a preponderance of evidence. It is therefore recommended that **Allegation A** be closed as **officer unidentified**.

Allegation (B) Abuse of Authority: Police Officer Caches threatened to damage [REDACTED] property.

It is undisputed that PO Caches threatened to damage [REDACTED] property.

In the audio file provided by Mr. [REDACTED] at 28 minutes and 58 seconds into the recording, an individual says, "Alright man, you can open this door, or we can knock it down. What do you want?" (Board Review 02). At 30 minutes and 14 seconds into the recording, the same voice says, "You need to go to the hospital."

Patrol Guide 221-13 states that an EDP is a person who appears to be temporarily deranged and is conducting himself in a manner which a police officer reasonably believes is likely to result in serious injury to himself or others (Board Review 09). If an EDP is a danger to himself or others, necessary force may be used to prevent serious physical injury or death. People v. Mitchell, 39 N.Y.2d 173 (1976) states that warrantless injuries into a home are only lawful pursuant to the emergency doctrine, in which the police have reasonable grounds to believe there is an emergency at hand and an immediate need for their assistance for the protection of life or property (Board Review 15). In Onderdonk v. State, 170 Misc. 2d 155 (1996), the court ruled that officers must give due respect to property and may only damage property if doing so is reasonably necessary to carry out their duties (Board Review 14).

In his verified statement, Mr. [REDACTED] stated that PO Caches told him he needed to open the door in order to go to the hospital (Board Review 04). He then said, "If you don't open the door then we're going to knock it down." Mr. [REDACTED] demeanor was controlled and he spoke at the volume of a "typical" speaking voice. He did not argue with the officers. Mr. [REDACTED] did not threaten to hurt himself or others during his interactions with the 911 operator or with the officers.

In his statement at the CCRB, PO Caches initially did not recall whether or not he said to Mr. [REDACTED] "If you don't open the door, then I'm going to knock it down" (Board Review 05). When a recording of his interaction with Mr. [REDACTED] was played for PO Caches, he stated that he said, "Alright man, you can open this door, or we can knock it down. What do you want?" PO Caches said this because he believed Mr. [REDACTED] might have presented an imminent danger to himself or others based on the fact that the job came over as a dispute and based upon his previous experience with Mr. [REDACTED] PO Caches stated, "You never know," in regard to

whether the situation was an emergency. On this occasion, Mr. [REDACTED] behavior did not lead PO Caches to believe Mr. [REDACTED] was a danger. Mr. [REDACTED] was always compliant, and his demeanor was not disruptive. Mr. [REDACTED] was not suspected of a crime at the time PO Caches made the statement concerning the door. PO Caches also said that he made the statement, "You need to go to the hospital. Open the door." PO Caches knew from previous encounters with Mr. [REDACTED] that he had delusions in which he believed sounds followed him and that he believed his telephone was hacked. He believed that individuals who say that they have delusions could be a danger to themselves. PO Caches statement that Mr. [REDACTED] needed to go to the hospital was based on his prior knowledge of and interactions with Mr. [REDACTED]

In PO Cassidy's statement at the CCRB, he stated that he did not know if there was reason to believe Mr. [REDACTED] was a threat to himself because he could not see him through the door and only heard him say a few words (Board Review 08). PO Cassidy believed Mr. [REDACTED] may have needed to be treated at the hospital because he was a known EDP who would not open his door.

PO Pina stated at the CCRB that he did not have a reason to believe that Mr. [REDACTED] was a threat to himself or others (Board Review 07). He additionally had no reason to believe that the situation was an emergency, and did not believe that Mr. [REDACTED] was injured. PO Pina had no reason to believe that Mr. [REDACTED] needed to be brought to the hospital. PO Caches did not explain to PO Pina why he made the statement, "Alright man, you can open this door, or we can knock it down," or why he said Mr. [REDACTED] needed to go to the hospital.

In his CCRB statement, PO Vannucci confirmed that Mr. [REDACTED] very frequently called 911 to report noise disturbances and what PO Vannucci believed to be psychotic delusions (Board Review 06).

The accounts of PO Caches, PO Vannucci, PO Pina, and PO Cassidy were consistent in their description of Mr. [REDACTED] as a chronic caller who routinely made complaints about noise disturbances and surveillance that they believed to be the product of delusional thoughts. The radio communications for this incident indicate that the 911 operator informed the officers, "EDP warning. Previous history" (Board Review 10). She provided no additional information. The operator's reference to Mr. [REDACTED] as an EDP immediately prior to the incident reinforced the officers' belief that Mr. [REDACTED] was mentally unstable. However, the officers differed in their assessment of whether or not the incident constituted an emergency or a situation in which human life was at risk.

In this instance, the permissibility of PO Caches' statement concerning the door relies on whether or not he had legitimate authority to forcibly enter the residence at the time. The officers consistently stated that Mr. [REDACTED] was calm or that they could not determine his demeanor through the door. None of the officers said that Mr. [REDACTED] was likely to engage in behavior that would cause serious injury to himself or others, though some of the officers, including PO Caches, hypothesized that he could have been, though they did not know. Given these statements, the officers did not have sufficient reason to believe that Mr. [REDACTED] was an EDP. Similarly, none of the officers stated they had reason to believe the situation was an emergency, though some officers said that, hypothetically, it could have been an emergency. The notion that the

situation constituted an EDP-related emergency is further undermined by the fact that the officers departed the location without gaining entry into the apartment or removing Mr. [REDACTED] to the hospital. Based upon their statements and actions, the officers failed to establish, as per Onderdonk v. State, that it was reasonably necessary for PO Caches to damage Mr. [REDACTED] door in order to carry out his duties by bringing Mr. [REDACTED] to the hospital. Therefore, PO Caches' threat to knock down Mr. [REDACTED] door was not justified under the circumstances.

Given that none of the officers, including PO Caches, provided sufficient reason to believe that Mr. [REDACTED] was an EDP, that the situation was an emergency, or that property damage was reasonably necessary to carry out PO Caches' duties, it is recommended that **Allegation B** be closed as **substantiated**.

Allegation (C) Abuse of Authority: Police Officer John Cassidy interfered with [REDACTED] use of a recording device.

It is undisputed that PO Cassidy interfered with Mr. [REDACTED] use of a recording device.

Mr. [REDACTED] stated that he tried to record the officers with his cellphone through his apartment window as they vacated the premises (Board Review 04). From about 10 feet away, two officers who Mr. [REDACTED] could not identify pointed their flashlights at Mr. [REDACTED] cellphone for half a minute such that Mr. [REDACTED] could not see the officers or the patrol car numbers. Mr. [REDACTED] believed the officers intentionally obscured his view of them.

Mr. [REDACTED] provided a 17 second video to the CCRB taken through the window of Mr. [REDACTED] apartment (Board Review 03). The associated SnagIt clip can be found below (Board Review 01). The video depicts a circle of bright light which obscures the camera view of the officers for nine seconds. The light remains visible at the conclusion of the video clip.



[REDACTED].video.mp4

PO Cassidy saw Mr. [REDACTED] standing in the window of his apartment as he departed (Board Review 08). Mr. [REDACTED] held an object that emanated light. PO Cassidy believed it to be a cellphone or flashlight, but he could not tell because it was dark and snowy outside. PO Cassidy shone his flashlight at Mr. [REDACTED] through the window. PO Cassidy did so because he did not know what Mr. [REDACTED] held in his hand or what he was doing inside the apartment. PO Cassidy was taught to use the flashlight to blind individuals and protect his safety as needed. He did not shine the flashlight in order to intentionally interfere with Mr. [REDACTED] recording, though in doing so he was able to determine that Mr. [REDACTED] was recording the officers on his cellphone, which he did not know prior. PO Cassidy got into his police vehicle and departed.

PO Caches, PO Pina, and PO Vannucci stated either that they did not recall any officers using flashlights as they departed the location, or that officers had used flashlights but did not know that Mr. [REDACTED] was recording them (Board Review 05, 06, and 07).

Patrol Guide Procedure 203-29 states the individuals have a right to lawfully observe and record police activity (Board Review 16). Officers may not intentionally block or obstruct cameras or other recording devices when there is no legitimate law enforcement reason to do so. However, this right can be limited for reasons such as the safety of officers or other members of the public.

As discussed above, the officers did not have sufficient reason to believe that the interaction constituted an emergency in which Mr. [REDACTED] represented a danger to himself or the officers. This was confirmed by the fact that the officers left the location without taking further action. As such, PO Cassidy had no reason to employ his flashlight to protect his safety. PO Cassidy's observation that Mr. [REDACTED] held a device that emanated light, which he believed to likely be a flashlight or cell phone, additionally provided no reason for PO Cassidy to fear for his safety. Furthermore, PO Cassidy determined through the use of the flashlight that Mr. [REDACTED] was recording on a cellphone, yet kept his flashlight aimed at Mr. [REDACTED] for more than nine seconds.

Given that PO Cassidy's use of the flashlight over several seconds, even after he determined that that Mr. [REDACTED] was recording the officers, was not justified by safety concerns, it is therefore recommended that **Allegation C** be closed as **substantiated**.

Allegation (D) Abuse of Authority: An officer interfered with [REDACTED] use of a recording device.

Mr. [REDACTED] stated that an additional officer shone his flashlight at Mr. [REDACTED] while he recorded video on his cellphone through his window (Board Review 04). Mr. [REDACTED] could not identify the officer who did so as the light from the flashlights obscured his view of the officers.

PO Caches and PO Vannucci stated that they did not shine their flashlights at Mr. [REDACTED] window, and neither officer specifically recalled that any other officers had shone their flashlights (Board Review 05 and 06).

PO Pina and PO Cassidy believed that an officer beside PO Cassidy may have shined a flashlight at Mr. [REDACTED] window (Board Review 07 and 08). PO Pina denied that he did so himself, while PO Cassidy could not identify who the other officer was.

The video recorded by Mr. [REDACTED] shows dark conditions outside, with the view of the officers obscured by the bright circular light (Board Review 11). The individual officers, given these conditions, cannot be identified.

Given that Mr. [REDACTED] could not identify or describe the officers who shone their flashlights at him, that PO Caches, PO Vannucci, and PO Pina stated they did not use their flashlights, that all officers at the scene were unable to identify a second officer who shone his flashlight at the window, and that the conditions under which the video footage was recorded do not allow for

officer identification, the investigation was unable to determine the identity of the subject officer by a preponderance of evidence. It is therefore recommended that **Allegation D** be closed as **officer unidentified**.

Civilian and Officer CCRB Histories

- This is Mr. [REDACTED] seventh complaint with the CCRB (Board Review 11). None of the allegations in Mr. [REDACTED] prior cases were substantiated.
- PO Fernando Caches has been a member of the NYPD for 11 years and has had 18 previous CCRB allegations against him across 4 cases, none of which were substantiated. The allegations do not demonstrate any patterns relevant to this case.
- PO Daniel Pina has been a member of the NYPD for 1 year and has had no previous CCRB complaints against him.

Mediation, Civil and Criminal Histories

- This case was not mediated because the investigation was unable to identify all of the subject officers and because Mr. [REDACTED] did not want to mediate with PO Fernando Caches.
- On May 25, 2018, the Office of the City Comptroller confirmed that Mr. [REDACTED] had not filed a Notice of Claim in regards to this incident (Board Review 12)
- According to a search of the Office of Court Administration (OCA) records conducted on August 22, 2018, Mr. [REDACTED] has no history of arrests or criminal convictions (Board Review 13).

Squad No.: 16

| | | | |
|---------------|--------------------|-----------------------------|---------------|
| Investigator: | _____ Signature | _____ Print Title & Name | _____ Date |
| Squad Leader: | _____ Signature | _____ Print Title & Name | _____ Date |
| Reviewer: | _____ Signature | _____ Print Title & Name | _____ Date |